



**FAIRFAX COUNTY LEGISLATIVE PROGRAM
FOR THE
2003 VIRGINIA GENERAL ASSEMBLY**

Adopted December 9, 2002

**FAIRFAX COUNTY LEGISLATIVE PROGRAM
2003 VIRGINIA GENERAL ASSEMBLY**

INDEX

PAGE

**JOINT POSITIONS -- FAIRFAX COUNTY BOARD OF SUPERVISORS
AND SCHOOL BOARD**

- | | | |
|----|--|---|
| 1. | Joint Education Funding Positions | 2 |
| 2. | Education Funding -- Students with Limited English Proficiency | 3 |

REGIONAL POSITIONS

- | | | |
|----|---|---|
| 1. | Tax Restructuring and Education Funding | 5 |
| 2. | Transportation -- Pedestrian Safety | 6 |
| 3. | Transportation -- Transit Funding..... | 7 |

COUNTY INITIATIVES

- | | | |
|-----|---|----|
| 1. | Erosion and Sediment Control -- Projects on Tidal Waters | 9 |
| 2. | Human Rights -- Sexual Orientation | 10 |
| 3. | Parking -- Delinquent Tickets Collection | 11 |
| 4. | Parking -- Increased Fines for Repeat Commercial Vehicle Offenses | 12 |
| 5. | Public Safety -- Dangerous Weapons in Public Facilities..... | 13 |
| 6. | Public Safety -- In-Building Radio Coverage | 15 |
| 7. | Taxation -- Service Districts | 16 |
| 8. | Transportation -- Bus Shelter Advertising | 17 |
| 9. | Transportation -- Excess Rights-of-Way Funds | 18 |
| 10. | Transportation -- Quick Take Eminent Domain Authority for Sidewalk Projects | 19 |
| 11. | Tree Preservation -- Conservation and Replacement Species | 20 |
| 12. | Zoning -- Illegal Signs in Rights-of-Way | 21 |

COUNTY POSITIONS

- | | | |
|----|---|----|
| 1. | Funding -- Public Safety HB 599 Program | 23 |
| 2. | Funding -- Human Services | 24 |
| 3. | Human Rights -- Genetic Information Discrimination | 28 |
| 4. | Land Use -- Transferable Development Rights | 29 |
| 5. | Parking -- Commercial Vehicles on Residential Streets | 30 |
| 6. | Taxation -- Equal Taxing Authority | 31 |
| 7. | Telecommunications | 32 |
| 8. | Transportation -- Highway Allocation Formula | 34 |
| 9. | Youth -- Fairfax Partnership for Youth | 36 |

***JOINT POSITIONS
FAIRFAX COUNTY BOARD OF SUPERVISORS AND
SCHOOL BOARD***

Fairfax County Board of Supervisors and School Board
JOINT LEGISLATIVE POSITIONS
2003 General Assembly

1. JOINT EDUCATION FUNDING POSITIONS

The Fairfax County School Board and the Fairfax County Board of Supervisors jointly support the following positions on these critical issues:

- ***Exempting all State aid for public education from spending reductions taken to manage Virginia's continuing budget deficits;***
- ***The need for increased State funding of public education through the Standards of Quality (SOQ) and other programs; and***
- ***The need for enhanced revenue capacity for localities to address pressing public education capital costs and other local needs***

(Updates and reaffirms previous position.)

State Education Underfunding

Support a significant increase in State educational funding so that the State fully funds its share of the actual costs of meeting the Standards of Quality (SOQ), based on prevailing practices among local school divisions. In addition, the State should provide increased long-term funding for school construction and renovation and for educational technology as well as fully fund the cost of competing factor to address the high cost of living and personnel costs in the competitive Northern Virginia regional wage market. Oppose reducing the already-low State funding for K-12 public education, especially in view of growing student enrollment and the implementation of two State and federal accountability programs, including the Standards of Learning (SOL) and the requirements of the No Child Left Behind Act (NCLBA).

Need for Increased SOQ and Other Funding

Support recommendations from the Joint Legislative Audit and Review Commission's (JLARC) *Review of Elementary and Secondary School Funding*, which report documents that the State has significantly underestimated and thus under-funded by more than \$1 billion in the biennium the costs of meeting the current Standards of Quality (SOQ). Support the recognition and funding of additional costs which, although they arise from prevailing best practices among the local school divisions, are currently not included in the SOQ funding formulas and are thus not supported by State funding.

Enhanced Revenue Capacity for Education and Other Local Needs

1. Support legislation returning a portion of the State individual income tax to the localities as net new revenue for their unrestricted use. This money would be in addition to existing State aid to localities.
2. Support giving counties the same taxing authority as that available to cities. Most counties are now providing the same services as cities, with fewer options available for funding those services. Counties are, by default, increasingly reliant on property taxes that are proving to be inadequate and inequitable revenue sources.
3. Support actions and recommendations by the Joint Subcommittee to Study and Revise Virginia's State Tax Code and other policy-makers that produce extra funds or funding opportunities for localities, and refrain from actions that decrease local revenue or opportunities for raising revenue at the local level. So-called "revenue neutral solutions" do not address the fundamental problem of insufficient funds for public services.

Fairfax County Board of Supervisors and School Board
JOINT LEGISLATIVE POSITIONS
2003 General Assembly

2. EDUCATION FUNDING -- STUDENTS WITH LIMITED ENGLISH PROFICIENCY

Support legislation to amend the Standards of Quality (SOQ) to require appropriate instructional and assessment programs for students with limited English proficiency (LEP). Further, State funding to local school divisions for LEP students should be commensurate with the services and resources necessary to adequately educate such children; State funding should recognize that LEP students require more resources to educate, a burden which is now borne almost exclusively by localities due to inadequate State assistance.

There should be a specific requirement in the State SOQ that local school boards provide appropriate instruction programs for LEP students in grades K-12, should such LEP students be enrolled. Currently, there is a federal requirement that these students be educated; the No Child Left Behind Act (NCLBA) requires local school divisions and states to assess both the English language proficiency and the academic achievement of LEP students.

During the 2000-2001 school year, 102 Virginia school divisions reported enrolling 43,535 LEP students -- an increase of 145% in ten years and an increase of 15% in the last three. Fairfax County Public Schools enrolled 19,248 of these students in 168 schools. The current SOQ omit this sizeable group of students but requires appropriate instructional programs for other student populations such as those with disabilities and those identified as gifted.

Additionally, there should be a State provision for LEP students for alternate assessments that are linguistically appropriate and in the form most likely to yield accurate and reliable information on these students' mastery of subjects other than English, as authorized by the federal NCLBA. Several states have already developed alternate LEP assessments and others are beginning the process in response to NCLBA requirements. Presently, Virginia's Standards of Learning (SOL) tests were developed for native English-speaking students and are extremely challenging for students learning English. Studies consistently show that LEP students need at least five years of instruction in English before they are able to score at the fiftieth percentile on standardized tests of achievement.

At a minimum, the Appropriations Act should provide for the State share of funding for two pupil personnel positions per 1,000 LEP students. Personnel such as guidance counselors, social workers, translators, interpreters, and school-parent liaisons are required to provide the additional educational services necessary for LEP students to learn English, succeed academically, and become contributing members of society.

REGIONAL POSITIONS

**Northern Virginia REGIONAL LEGISLATIVE POSITIONS
2003 Virginia General Assembly**

1. TAX RESTRUCTURING AND EDUCATION FUNDING

Fairfax County and other Northern Virginia localities, along with the Virginia Municipal League, support a package of recommendations that, if implemented together, will protect and enhance local government revenues:

- ***Additional State revenues are necessary for the State to meet its responsibility for funding education. To provide the additional revenue, revenue from income taxes should be increased either by raising tax rates or eliminating certain existing exemptions, or both, and the tax burden on low-income tax filers should be reduced.***
- ***To address the problems associated with State education funding which have resulted in a \$1.0 to \$1.4 billion State funding shortfall according to the Joint Legislative Audit and Review Commission (JLARC), the current education funding formula should be eliminated and replaced with a simpler one. The new formula would be based on the cost of education services and at-risk student levels, and would recognize cost differentials across the State and discourage inefficiencies in education spending.***
- ***Any tax restructuring changes that would restrict existing local taxing authority would not be supported; further, any tax restructuring measures that would adversely affect the financial condition of towns would be opposed.***

(Updates and reaffirms previous position.)

Local governments throughout the Commonwealth currently pay a disproportionate share of the costs for the instructional and support staff necessary to meet State educational standards. In 2002, the JLARC completed a two-year review of State and local education funding. This study documented a shortfall of over a billion dollars in State educational funding for school systems throughout the State.

The Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) have reviewed the JLARC report and developed a proposal to address the inadequacy of State funding for K-12 education. This proposal, which would require additional State revenues, would also address a well-documented need for additional revenues at the local level.

The VML/VACo proposal seeks to replace the current education funding formula with a simpler one. The new formula would be based on the cost of education services and at-risk student levels, and would recognize cost differentials across the State. Although this proposal could not be funded while the State is experiencing its current revenue shortfall, VML and VACo are pursuing this as a long-term goal.

Northern Virginia REGIONAL LEGISLATIVE POSITIONS
2003 Virginia General Assembly

2. TRANSPORTATION -- PEDESTRIAN SAFETY

Northern Virginia localities support legislation to authorize local ordinances that would require drivers to stop for pedestrians in a marked crosswalk at locations where the roadway speed is 35 miles per hour or less and the marked crosswalk is not at a signalized intersection.

Recent events throughout the region have highlighted a growing concern for the safety of pedestrians attempting to cross streets. Many of the member jurisdictions in the Northern Virginia region are exploring a variety of means to effectively provide for pedestrian safety while avoiding both the potential for serious vehicular accidents and the potential for creating a false sense of security for the pedestrians. Authorizing legislation to permit a requirement for drivers to stop for pedestrians in certain crosswalks would serve to both increase pedestrian safety on a number of roads throughout the region and serve to heighten driver awareness of the issue.

Under current Virginia law: 1) a driver only has to yield to pedestrians, rather than come to a complete stop; 2) a driver does not have to yield to pedestrians at unsignalized locations if the speed limit is over 35 mph; 3) traffic signals and any pedestrian control signals govern the movement of vehicles and pedestrians; and 4) a pedestrian crossing at an intersection has the right-of-way over a vehicle attempting to turn right onto the road that the pedestrian is crossing.

Northern Virginia REGIONAL LEGISLATIVE POSITIONS
2003 Virginia General Assembly

3. TRANSPORTATION – TRANSIT FUNDING

Support significantly increased funding available for transit by increasing transit's share of the Transportation Trust Fund to 19 percent. If not feasible, support increasing the Northern Virginia motor fuels tax from two percent to four percent

State law currently provides that 14.7 percent of the Transportation Trust Fund (TTF) be allocated to transit. This formula resulted in a \$97 million allocation for transit administrative, operating (fuels, tires and maintenance) and capital expenses in FY 2003. State law also provides that the State shall fund 95 percent of transit operating and capital expenses. To fully meet this requirement, the State would need to provide approximately \$208 million for transit. To accomplish this based on current revenues, the formula should be amended to allocate 32.0 percent of the Transportation Trust Fund to transit. If approved, these additional funds would allow Fairfax County and other local jurisdictions to expand their transit programs to address continued growth and to provide service to new markets.

Increasing transit's share of the TTF will reduce the share of funding for other transportation modes, including highways, ports and airports. However, because Northern Virginia receives the bulk of transit funding in the State, a reduction in highway funding can be more than offset by the increase in transit funding. As a result, Northern Virginia would receive more transportation funds overall.

The Northern Virginia Transportation Commission (NVTC) is proposing to include a request to increase transit's share of the TTF in its legislative program. If transit's share of the Trust Fund was increased to 19 percent, it would generate an estimated \$30 million statewide in additional transit funds; of this amount, approximately \$20 million would be allocated to Northern Virginia. As an alternative to increasing transit's share of the Trust Fund, NVTC would favor increasing the regional motor fuels tax from two to four percent. This would also generate about \$20 million.

Since 1981, the NVTC has collected a regional, two-percent motor fuels tax in Fairfax County, Arlington County and the Cities of Alexandria, Fairfax and Falls Church. This tax is applied to the retail price of motor fuels in the five jurisdictions. The revenue collected is allocated back to the jurisdictions based on point-of-sale. This revenue is used to pay the jurisdictions' share of the Washington Metropolitan Area Transit Authority's operating and capital expenses, including debt service. Loudoun County also receives a two-percent motor fuels sales tax and uses it for transportation purposes.

Senate Bill No. 704 has been prefiled and would provide for a statewide 4.5 percent sales tax on the retail price of motor fuels sold in the Commonwealth. All revenues generated and collected from the tax would be deposited into the TTF and distributed in the manner currently provided for the 0.5 percent sales and use tax on motor fuels enacted by the 1986 Special Session of the General Assembly. If approved, this tax would generate additional funding of approximately \$225 million statewide, including approximately \$22 million for transit and \$20 million for highways for Northern Virginia. This assumes that all the revenue is going through the formula and not being diverted to other needs including maintenance.

COUNTY INITIATIVES

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

1. EROSION AND SEDIMENT CONTROL -- PROJECTS ON TIDAL WATERS

Initiate legislation to delete existing provisions in Va. Code § 10.1-560, the Virginia Erosion and Sediment Control Law, which exempt "Shore erosion control projects on tidal waters when the projects are approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers" from the definition of "land-disturbing activity."

The Virginia Erosion and Sediment Control Law exempts shore erosion control projects on tidal waters that have been approved by local wetlands boards, the Virginia Marine Resources Commission (VMRC), or the United States Army Corps of Engineers (USACE) from the definition of land-disturbing activity. As a result, these projects are not required to obtain land-disturbing permits or post conservation escrows for the maintenance of erosion and sediment controls and stabilization of disturbed areas. In theory, because these projects' primary purpose is the provision of permanent shore stabilization, they should not require much in the way of additional temporary erosion and sediment controls and those controls which are needed should be included as part of the permit application to the local wetlands board, the VMRC or the USACE. In practice, the exemption of shore erosion control projects from having to obtain land-disturbing permits and to post conservation escrows results in inadequate review of projects for compliance with local and State environmental regulations including the Chesapeake Bay Preservation Area Designation and Management Regulations, poor compliance with these same local and State regulations, inadequate inspection of projects and enforcement difficulties.

Significant areas of land disturbance associated with shore erosion control projects occur outside of tidal waters and tidal wetlands. These areas provide for construction access, temporary stockpiling of materials, maneuvering room for construction equipment and the creation of stable slopes along the shoreline. Local wetlands boards, the VMRC and the USACE do not have jurisdiction in the upland areas that border tidal waters and wetlands where these activities are occurring.

The submission of an erosion and sediment control plan and the associated request for a land-disturbing permit is the primary vehicle through which local jurisdictions review projects that do not require building permits and are not subject to subdivision and site plan ordinances for compliance with local regulations, provide for inspection of construction activity, and ensure that construction is performed with the appropriate erosion and sediment controls. Further, when problems occur, they cannot be fixed expeditiously without the ability to use conservation escrow.

The current exemption of shore erosion control projects from the requirement for submission of an erosion and sediment control plan, obtaining a land-disturbing permit, and the posting of a conservation escrow simply makes it too easy to circumvent the requirements of the Chesapeake Bay Preservation Area Designation and Management Regulations because land owners and their design professionals erroneously believe that all the necessary permits and approvals have been met.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

2. HUMAN RIGHTS ORDINANCE -- SEXUAL ORIENTATION

Initiate legislation to permit the County, as an urban county executive form of government, to prohibit discrimination in the areas of housing, real estate transactions, employment, public accommodations, credit, and education on the basis of sexual orientation. Fairfax County already has taken actions pursuant to existing State enabling legislation in the preceding areas on the basis of race, color, religion, sex, pregnancy, child birth, and disability. (Updates and reaffirms previous initiative).

Presently, the Fairfax County Human Rights Ordinance does not prohibit discrimination against persons on the basis of sexual orientation. The Human Rights Commission in 2000 studied the need to add sexual orientation protections and issued a report to the Board of Supervisors documenting the need for the added protection and recommending that the Ordinance be amended to include sexual orientation as a protected class.

In response to the Commission's report, legislation was introduced in the 2001 and 2002 General Assembly Sessions at the request of Fairfax County which would have enabled the County to amend its existing Human Rights Ordinance to prohibit discrimination based on sexual orientation in the areas of housing, real estate transactions, employment, public accommodations, credit, and education. Senate Bill No. 1147 failed in the Senate Local Government Committee when it was passed by indefinitely in 2001; and House Bill No. 750 was passed by indefinitely in the House Committee on Counties, Cities and Towns in 2002.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

3. PARKING -- DELINQUENT TICKETS COLLECTION

Initiate legislation so that the Division of Motor Vehicles (DMV) may enter into an agreement with a locality to refuse to renew State vehicle registration of any applicant with two or more unpaid parking tickets, delinquent for at least 90 days from date of issue. Notification requirements of at least 30 days notice already are prescribed in the current law.

This proposal is another tool designed to enhance collection capabilities of local governments in collection of parking tickets. It would amend existing law that provides for the withholding of State registration for delinquent personal property tax payments. In line with the current statute, a service charge fee would be imposed by and be payable to the DMV. The Department of Tax Administration (DTA) would collect this fee for DMV at the same time the violator pays the County fines. The ticket violator would not be allowed to renew their State registration until payment of the fee and ticket fines are received by DTA.

DTA would send a "hold" notice to DMV only for those tickets that have already been sent a series of collection letters and have remained more than 90 days past due. Like the State Set-Off Debt program, this collection tool would be used in conjunction with other efforts, such as boots and referrals to DTA's collection agent. Once referred however, the ticket violator would be liable for the DMV service fee, regardless of how the tickets are actually collected. For delinquent personal property taxes, the DMV fee is \$20 per person.

Currently, there are over 4,800 individuals that have 2 or more delinquent tickets over a 3 year period, with a cumulative amount due of \$822,470. While some individuals have a significant number of tickets, the majority of violators owe a few tickets. On average, this represents approximately 4 tickets per person with an average delinquency of \$169. In the meantime, all available collection avenues continue to be pursued in these cases.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

4. PARKING -- INCREASED FINES FOR REPEAT COMMERCIAL VEHICLE OFFENSES

Initiate an amendment to Va. Code § 46.2-1224 which would increase fines for individuals who repeatedly park commercial vehicles illegally on streets in residential communities.

Va. Code § 46.2-1224 provides that certain localities, including Fairfax County, may adopt an ordinance that prohibits the parking of certain commercial vehicles on public streets within residentially zoned areas. The present system creates little, if any, incentive to quit parking commercial vehicles on residential streets because repeat offenders may simply pay the standard fine amount for each subsequent ticket, regardless of how many tickets may be issued over a period of time. Accordingly, the proposal would establish a higher minimum fine for each additional parking ticket issued for such an ordinance violation within a twelve-month period. It is envisioned that the County would seek Circuit Court approval to allow any such increased minimum fine to be prepaid.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

5. PUBLIC SAFETY-- DANGEROUS WEAPONS IN PUBLIC FACILITIES

Initiate legislation to allow the County, as an urban county executive form of government, to adopt an ordinance prohibiting the possession of dangerous weapons in or on any facility or property owned or leased by the County, with certain exceptions, including any person who has been issued a permit to carry a concealed handgun. Violation of such an ordinance would be punishable as a misdemeanor. (Reaffirms/updates previous initiative.)

Va. Code § 15.2-915 generally prohibits localities from regulating the possession or carrying of firearms, and the Fairfax County Circuit Court has ruled that this statute does not permit Fairfax County to prohibit persons from bringing firearms into buildings that are owned or used by the County government. However, private property owners in Virginia generally are able to decide whether or not to permit dangerous weapons on their own property; private property owners can even prohibit the carrying of a concealed handgun even when the individual has a concealed handgun permit.

Localities operate numerous facilities and a wide range of programs that serve both the public at-large as well as large numbers of special groups, such as those who interact with the criminal justice and human services systems. The latter often serves vulnerable individuals who may be dependent on governmental decisions or policies for their most basic needs, such as shelter, food, mental and physical care, and personal safety issues. Many of these individuals are physically present in local public buildings during an extremely stressful time of their lives. Denial of requests, such as eligibility for specific programs or treatment options, can be devastating to people who have turned to government as their last resort. Administrative decisions which occur in local government facilities can be every bit as traumatic to an individual, for example, as are court decisions which occur in courthouse facilities where weapons currently are banned.

Virginia law already prohibits firearms and other dangerous weapons in other areas. For example, it generally is illegal to carry a firearm into a place of worship (Va. Code § 18.2-283), into a courthouse (Va. Code § 18.2-283.1), or onto the property of a public or private school (Va. Code § 18.2-308.1). The General Assembly should enact enabling legislation that would permit Fairfax County to adopt a similar prohibition on its administrative offices, board meeting rooms, mental health facilities, police stations, tax offices, recreation areas, welfare facilities and other properties. Such enabling legislation should provide exceptions for firearms carried by any law enforcement officer or game warden, any special police officer, any magistrate or judge, and any person who has been issued a permit to carry a concealed handgun pursuant to Va. Code § 18.2-308(D).

The Board of Supervisors has previously initiated legislation to allow Fairfax County to adopt an ordinance prohibiting the possession of dangerous weapons in or upon certain or any facility or property owned or leased by the County:

- In 1996 House Bill No. 116 and Senate Bill No. 100 were introduced by the County and were amended to include the City of Alexandria and Prince William and Arlington Counties. These bills would have allowed the County to prohibit the possession of dangerous weapons in County facilities.
- In 1997 the Board initiated legislation (House Bill No. 1946 and Senate Bill No. 763) which would have allowed the County to ban dangerous weapons in teen centers.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

5. PUBLIC SAFETY -- DANGEROUS WEAPONS IN PUBLIC FACILITIES (Cont.)

- In 1998 the County again initiated similar legislation to allow banning of dangerous weapons in teen centers (Senate Bill No. 130).
- In 2000 the Board initiated legislation similar to that in 1996 (House Bill No. 148 and Senate Bill No. 425) which would have allowed the County to ban dangerous weapons in county-owned or operated facilities.
- In 2001 the Board initiated legislation (Senate Bill No. 934) which would have allowed the County to ban dangerous weapons in county-owned or operated facilities. A substitute for Senate Bill No. 934 narrowed the scope of the original bill, but still would have allowed Fairfax County to prohibit dangerous weapons in recreation centers and police stations.
- In 2002 the Board again initiated legislation (Senate Bill 424) to allow the County to ban dangerous weapons in County-owned or operated facilities. In response to testimony at the County's public hearing on the proposed legislative package, the Board decided not to include bans on weapons carried by persons with valid concealed carry permits as part of the proposed legislation. Despite this concession, the bill was not reported by the Senate Courts of Justice Committee.

A similar bill (House Bill No. 1017) would have prohibited the possession of a handgun in any County-owned building. The bill was initially carried over by the House Committee on Militia, Police and Public Safety and then amended during the Committee's reconsideration of the legislation. In its final form the bill would have prohibited the possession of handguns only in the specific council or board chamber where the governing body regularly meets. The measure was passed by indefinitely with only three members voting in favor of the legislation.

The above County bills and similar authorizing bills initiated by individual Fairfax County legislators to prohibit dangerous weapons in County buildings and/or teen centers (introduced during the 1996, 1998, 1999, 2000, 2001, and 2002 Sessions) were killed in committee. Only Senate Bill No. 763 (1997 GA) passed the General Assembly; however, the bill was vetoed by Governor Allen.

In 2002 the General Assembly broadened an existing statutory prohibition against local government control of firearms by passing Senate Bill No. 593; that legislation amended Va. Code § 15.2-915 to require that any local ordinance regulating firearms shall be based only on a specific statute that expressly refers to firearms. Enactment of legislation based on the County's 2002 proposal (Senate Bill No. 424) would have met that new statutory requirement.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

6. PUBLIC SAFETY -- IN-BUILDING RADIO COVERAGE

Initiate a legislative resolution to assess public safety radio communications in-building coverage problem throughout the State. With this information, the State and localities can determine if there is a need for legislation to require a minimum level of in-building radio performance to achieve adequate public safety radio coverage that meets the needs of both law enforcement and fire service organizations.

Over the past two decades, in-building public safety radio coverage has emerged as a key requirement in the design and procurement of public safety radio systems. Accordingly, the newest public safety radio system designs are based on standards of operation developed using portable radios from within the types of buildings and structures found in a proposed service area. As a result, in-building portable radio coverage is available inside many structures where it did not exist in the past. When the system is properly designed, it is possible for public safety professionals to contact the dispatcher or other members of the public safety agency from inside most buildings of a particular jurisdiction. Today's public safety radio system designs have accomplished something that was not thought possible thirty years ago.

However, even with the significant improvements to radio technology, radio system design and resulting in-building coverage, there are buildings and locations within buildings in Fairfax County and elsewhere where it is difficult or impossible to provide reliable portable radio coverage. The reasons typically fall into one of the following categories:

Limitations of Technology - Radio technology is line-of-sight in nature. Certain areas in structures are extremely difficult to cover, including stairwells, below grade and ground floor areas, elevators, and special shielded or reinforced areas, such as areas inside hospitals or detention facilities.

Design Limitations - Providing reliable in-building radio coverage is typically accomplished by increasing the number of tower sites used in the radio system design. However, there are often land use or cost constraints associated with building these tower sites, which may impact the design of the radio system.

Modern Commercial Building Design and Construction - Current design practices use construction materials that are much more difficult to penetrate with radio signals. These include special reflective window glass and steel reinforced concrete. Thus, newer commercial occupancies are far more difficult to cover reliably than older building counterparts.

Nationwide, a common theme found in the investigation of firefighter fatalities that have occurred on incident scenes is that of communications problems. Recent tests of sample buildings in Fairfax County for in-building coverage have shown a wide variance in the percent of the structure wherein the radio signal functions. In some cases, public safety radios are reduced to functioning in less than 60% of the building tested. The problem exists in a number of buildings throughout the County and is particularly apparent in larger structures such as high-rise buildings, malls, shopping centers, parking garages, and government buildings; however, the problem is not limited to these examples. The result of the lack of adequate radio operability in these buildings is that firefighters and other public safety officers do not have reliable communications during emergency operations when it is critical that they be able to receive and transmit urgent messages.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

7. TAXATION -- SERVICE DISTRICTS

Initiate legislation to amend Va. Code § 15.2-2403, the current service district law, which now provides for control of infestations of gypsy moths, cankerworms and other plant pests, to include insects that are harmful to humans, such as mosquitoes. Expansion of the current service district to include such harmful insects will provide the County with a stable source of funding and utilize the current administrative support structure to effectively treat this potentially harmful pest. (Revises previous position.)

In order to control cankerworm infestation, during the 2000 General Assembly Session the Fairfax County Board of Supervisors requested legislation to broaden the existing service district authority -- which was then limited to controlling gypsy moths -- to include other pests, animals, or insects that could cause harm to persons, plants or property. However, the General Assembly enacted limited legislation which only added the control of cankerworms and other plant pests identified by the Commissioner of the Virginia Department of Agriculture and Consumer Services.

Fairfax County, since 2001, has had a tax rate of \$0.001 per \$100 of assessed value in its near countywide special service district; revenue from this tax is used to mitigate and control the populations of gypsy moths and cankerworms. Under Fairfax County's current program, treatment plans and resource requirements, based on identified and anticipated pest populations, are approved annually by the Board in February with treatment conducted in spring/early summer. The treatment requirements and the corresponding tax rate to support these requirements have varied due to the cyclical nature of the gypsy moth and cankerworm populations. In FY 2001, 1,800 acres were treated for gypsy moths and 250 acres for cankerworms. In FY 2002, 5,000 acres were treated for gypsy moths and 200 for cankerworms. The FY 2003 plan calls for 6,000 acres for gypsy moths and 500 for cankerworms.

Expansion of the law to include insects that are harmful to humans will provide the County with sufficient flexibility to address the treatment requirements of the gypsy moth and cankerworm populations as well as to address identification and treatment requirements of mosquitoes in Fairfax County. This expansion will also take advantage of existing program management capability in order to provide these services in the most cost-effective manner possible.

Recently, mosquitoes infected with the West Nile Virus have been found in Fairfax County and to date, six human cases of West Nile virus have been reported in the County. In addition, mosquitoes in Loudoun County and Fairfax County have tested positive for malaria. The approach for controlling mosquitoes now being followed includes increasing mosquito surveillance and testing, treating storm sewer catch basins and surface water impoundments in high risk areas with larvicide to suppress the emergence of mosquitoes, and providing considerable public education on self-protection and the need to eliminate mosquito breeding areas around the home.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

8. TRANSPORTATION -- BUS SHELTER ADVERTISING

Initiate legislation authorizing local governments to place advertisements in bus shelters located in Virginia Department of Transportation (VDOT) rights-of-way.

Most bus shelters are installed in VDOT rights-of-way for several reasons, including minimizing the distance a passenger is exposed to the elements when walking between the shelter and the bus, and minimizing the need to acquire property or easements from private land owners. The land acquisition process can be expensive and time consuming. Current State law generally prohibits commercial advertising within 15 feet of any paved road surface that is not located within a municipality, but allows the Commonwealth Transportation Commissioner to permit such advertising, if it is within 15 feet of the pavement, but outside the right-of-way. The General Assembly would need to amend the law to allow the County to establish an advertising program for bus shelters within rights-of-way.

Allowing advertising in shelters would provide a way to improve public transit service without expending public funds. This approach could significantly increase the number of shelters installed and greatly reduce the County's staff efforts related to the installation process. The County would contract with a private entity and establish standards for the bus shelter advertising. In exchange for the right to advertise on bus shelters, a private entity would install and maintain the shelters and provide transit information at the shelters.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

9. TRANSPORTATION -- EXCESS RIGHTS-OF-WAY FUNDS

Initiate legislation to mandate the Virginia Department of Transportation (VDOT) to deposit excess funds from the sale of excess rights-of-way into the Secondary Road funds earmarked for the jurisdiction from which the excess funds came.

When the Virginia Department of Transportation (VDOT) acquires right-of-way for a secondary road project in Fairfax County, Secondary Road Funds are used to purchase the property. Sometimes, VDOT will purchase more right-of-way than is needed for the project. In that case, at the completion of the project VDOT will sell the remnant properties; often the remnant parcels are large enough that they can be sold as individual buildable lots. Until approximately two years ago VDOT would credit the amount received from the sale of such excess right-of-way back to the jurisdictions' secondary program. VDOT has changed this practice and these funds are recorded in a separate revenue account. VDOT has indicated a willingness to go back to the previous practice but has not done so.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

**10. TRANSPORTATION -- QUICK TAKE EMINENT DOMAIN AUTHORITY FOR
SIDEWALK PROJECTS**

Initiate legislation to authorize localities to use “quick take” eminent domain procedures to acquire property needed for sidewalk projects.

Under current State law, the “quick take” provisions of the eminent domain statute can only be used in limited situations, such as for roadway or sewer projects. This means that pedestrian projects that are independent of roadway projects are often substantially delayed, if land must be acquired through the standard condemnation process. As part of the County’s response to the Transportation Advisory Commission’s pedestrian recommendations, it is recommended that the Board pursue legislation to include certain types of pedestrian projects in the “quick take” provisions of the eminent domain statute. These projects could include circumstances where pedestrians are walking in the street due to lack of a pedestrian facility.

Since the General Assembly has authorized VDOT to construct pedestrian projects independent of road projects during the 2002 Session, this eminent domain authority would be helpful in enabling expedited construction of safety-related pedestrian projects. Adding "sidewalks" to the list of public improvements for which the necessary property interests may be acquired via “quick take” procedures would be the best approach.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

11. TREE PRESERVATION -- CONSERVATION AND REPLACEMENT SPECIES

Initiate legislation to amend Va. Code § 15.2-961 to allow Fairfax County and/or other Planning District 8 localities to:

1) require that existing trees on development sites be preserved in order to meet post-development minimum tree canopy requirements in an amount proportionate to the percentage of the site that was covered by trees predevelopment; also, allow urbanized localities to increase from 15 to 20 percent the amount of tree canopy that would be required at 20 years after development on residential sites zoned more than 10 but less than 20 dwelling units per acre, and to increase from 20 to 30 percent the amount of tree canopy that would be required on residential sites zoned 10 or fewer dwelling units per acre.

2) designate tree species that can and cannot be planted to receive tree canopy credits. (Reaffirms and updates previous positions.)

In the 2002 General Assembly, three tree conservation bills were introduced. One of these, Senate Bill No. 484 (Howell), was a County initiative that provided for the measures noted above but was continued to 2003 in the Senate Local Government Committee which is not scheduled to meet. New legislation will be submitted at the 2003 General Assembly.

1) Va. Code § 15.2-961 currently focuses on the replacement of trees using landscape materials during land development. Although existing trees can be used to meet tree cover requirements, the current language allows the required percentages of tree cover to be provided exclusively through the planting of nursery-grown trees. The replacement focus of the current provisions does not acknowledge the superiority of existing plant communities over planted trees in the delivery of environmental and socio-economic benefits. Under current law, the practice of planting trees is pursued significantly more often than the practice of preserving trees. Without explicit tree preservation legislation, the preservation of existing trees probably will continue to be overlooked in favor of planting new trees.

The proposal would increase the required percentages of tree cover for medium and low density residential development. These land use categories and densities are likely to experience the greatest loss of tree cover in Fairfax County over the next twenty years.

2) The current language does not specifically allow a jurisdiction to regulate the types of trees used to meet tree cover requirements. As a result, post development tree canopies often are populated by low quality trees that do not thrive in Fairfax County planting environments, trees that are structurally weak, and trees that are invasive by nature and cause disruption to native plants. This proposal would allow the County to designate which trees can be used to receive tree cover credit on proposed development plans. It is anticipated that a list of desirable species would be published in the local land development/zoning ordinances as a reference for land developers and their agents.

Fairfax County LEGISLATIVE INITIATIVES
2003 Virginia General Assembly

12. ZONING -- ILLEGAL SIGNS IN RIGHTS-OF-WAY

Initiate legislation to amend Va. Code § 33.1-375.1 to allow certain localities the option of including certain limitations in agreements with the Commonwealth Transportation Commissioner to enforce removal of illegal signs in State rights-of-way.

Currently, Va. Code § 33.1-375.1(A) provides that the Commonwealth Transportation Commissioner may enter into agreements with the local governing body of any county having a population of at least 57,000 but not more than 57,450 to enforce the provisions of Va. Code § 33.1-373, which prohibits advertisements or advertising structures in the State rights-of-way, and to collect the costs and penalties provided in that Section. Va. Code § 33.1-375.1(B) provides, among other things, that one-half of the penalties and costs collected under this Section be paid to the affected locality. Va. Code § 33.1-375.1(C) requires that such agreements with these counties provide that the following signs and advertising shall not be subject to such agreements:

1. Signs and advertising supporting an individual's candidacy for elected public office or other ballot issues, provided this exception shall not include signs and advertising in place more than three days after the election to which they apply.
2. Signs and advertising promoting and/or providing directions to a special event to be held at a specified date stated on the sign or advertising, provided this exception shall not include special event signs in place more than three days after the conclusion of the special event.
3. Other signs and advertising erected for no more than three days.

Subsection (D) of Va. Code § 33.1-375.1 provides that the Commissioner may also enter into similar agreements with governing bodies of localities other than those identified in subsection (A), but that the limitations in subsections (A) through (C) *shall not apply* to such agreements. The proposed amendment to subsection (D) would change “shall not apply” to “need not apply.” That amendment would allow localities not included in subsection (A), such as Fairfax County, with the option of including some or all of the limitations in subsections (A) through (C) in their agreements with the Commissioner. For example, an agreement with Fairfax County could then provide that signs advertising special events could be placed within the right-of-way so long as they are removed within three days after the event.

COUNTY POSITIONS

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

1. FUNDING -- PUBLIC SAFETY HB 599 PROGRAM

Support full funding of the HB 599 law enforcement program, to include continuation of annual increases in accordance with the State General Fund as required by Va. Code §§ 9-183.13 through 9-183.21. The State should fully fund its commitment to this public safety program so that the funding is stable and equitable and can be relied upon to help fund preparedness and other important local law enforcement needs. Historically, State HB 599 funding has been plagued by inconsistency and repetitive reductions reflecting State budget shortfalls. (Revises and updates previous position.)

As a result of HB 599 funding, Fairfax County and other local governments with police departments have been able to fund previously unmet law enforcement needs. Such funding has supported civil disturbance preparedness, both in terms of equipment and training, and has begun to address the growing concerns related to weapons of mass destruction. Furthermore, recently-identified needs to enhance and expand intelligence gathering and processing capabilities will necessitate further reliance upon monies available through the HB 599 law enforcement program.

The HB 599 program represents the State's effort to support law enforcement efforts in localities with police departments; the funding helps to provide greater equity with State assistance for local governments with sheriff's departments. However, there continues to be local concern over the stability and inconsistency of the HB 599 funding; while fully funded in the late 1990's after years of flat funding, recent State actions to balance shortfalls have continued to impact full funding, as depicted by the following historical perspective:

- At the behest of various affected cities, counties and towns, the Governor and 1999 General Assembly fully funded the HB 599 law enforcement program for FY 2000 by adding \$98 million statewide. This cooperative action not only reinstated the funding to a level commensurate with the annual cumulative increases of the State General Fund, but also honored a long-standing promise by the General Assembly to localities with police departments.
- During the 2000 General Assembly Session, the General Assembly and the Governor fully funded the HB 599 program for FY 2001 and FY 2002 at the percentage increase of the General Fund; during the 2001 Session, because of the State budget impasse, no changes were made to the HB 599 program funding. However, the Governor's Executive Order No. 74 reduced HB 599 statewide funding by \$4.8 million in FY 2001 and \$5.8 million in FY 2002 to ensure a balanced budget.
- Due to the State's revenue shortfall projected during the 2002 General Assembly Session, the General Assembly and the Governor reduced HB 599 statewide funding by \$5.9 million in FY 2002, \$2.5 million in FY 2003 and \$12.1 million in FY 2004. The General Assembly actions froze the FY 2004 appropriation at the same level as FY 2003.
- Recently, due to lower predicted growth in State General Fund revenue in FY 2003, HB 599 funding was reduced \$5.5 million statewide. HB 599 funding will be adjusted further if predicted revenue growth falls below the current growth estimate. Projected FY 2004 State revenue growth will determine the level of statewide HB 599 funding in FY 2004.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

2. FUNDING -- HUMAN SERVICES

Support adequate State funding for essential human services programs that offer protection from abuse, neglect and exploitation and assist people to achieve and maintain independence and self-sufficiency. (Revises and updates previous positions.)

Many human services programs, such as child protective services and foster care, are mandated by Federal and State statutes. Other programs, such as in-home services to senior citizens, while not mandated, provide assistance and support for people who lack the resources to help themselves. Some human services, such as parenting classes and respite services for caregivers, intervene to protect individuals at risk of abuse and prevent actions that might result in a need for more costly services.

Each year Fairfax County requests additional State resources to support the existing and increasing demand for necessary human services programs. In comparison to other states, Virginia traditionally has under-funded such programs. A 2002 Joint Legislative Audit and Review Commission (JLARC) report compared Virginia's State and local spending on public welfare, hospitals and health with all other states and ranked Virginia 42nd.

A slumping economy and an outdated State and local tax structure are the immediate reasons Virginia is not able to fully fund essential services in the current biennium budget. However, the combination of the fiscal crisis and Virginia's traditional underfunding increase the seriousness of the situation. In addition, other relatively new trends will exacerbate the costs for local governments' human service budgets, including: an increasingly diverse population; a growing number of elderly people; a continuing high level of children in poverty; and an emerging national health care crisis. It is also true that the size of the population and the high cost of living in Northern Virginia require, but do not always receive, a regional adjustment to the revenues designated through statewide funding formulas.

Like most local jurisdictions, Fairfax County provides funds to "prop up" human services programs that are of value to County residents, but inadequately supported by State General or Non-General Funds. However, with double-digit budget cuts anticipated at the State level, and additional demands on local revenues, the County will be forced to make difficult decisions about the level of funding available for human services programs for the remainder of FY 2003 and for FY 2004. Further budget reductions may reduce critical services and impact programs in the following areas:

Aging and Long Term Care: During this decade the senior population is expected to grow by 75 percent. Requests for day care services, congregate meals and home-based assistance with daily living activities, although increasing at the rate of 10% a year, may not be met, or may be capped at current service levels. Funding to all 25 area agencies on aging was cut by 11 percent in the Governor's first round of budget cuts in October 2002. Even persons needing emergency services may be placed on a waiting list.

Child Care: In recent years Temporary Assistance for Needy Families (TANF) funds have provided a base of support for subsidized day care services. Should the State budget shortfall require the diversion of available TANF funds to cover the General Fund deficiencies in other core human services programs, Fairfax County will not be able to bridge the gap. Subsidized day care to more than 1,000 County children currently receiving services could be eliminated.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

2. FUNDING -- HUMAN SERVICES (Cont.)

Juvenile Justice: With last year's 51 percent cut in State juvenile justice funds (a loss of \$886,384), Virginia Juvenile Community Crime Control Act (VJCCCA) funds were reduced for the Boys Probation House, the Girls Probation House, the Less Secure Shelter, Supervised Released Services, the First Offender Program, and the Chins Diversion Program. In FY 2003, VJCCCA funds are being provided to only three of these programs. Further State reductions in operating expenses for local secure detention centers amounting to \$826,000 for FY03 and FY04 will cause overcrowding potentially affecting the safety of both youth and staff. Without restoration of funding, the County will not be able to continue operating the programs at the existing levels.

Mental Health, Mental Retardation, and Substance Abuse Services: In July 2001 the Fairfax/Falls Church Community Services Board (CSB) documented unmet services needs for 2,439 persons with serious mental illness; emotional disturbance; mental retardation; and substance abuse problems. Three hundred and twenty-eight of these persons with mental retardation are on the Mental Retardation Waiver waiting list and are eligible for State and Federal Medicaid funding. One hundred and sixty of the 328 who have been in urgent need of services are currently being served by Fairfax County funds, at a cost of \$2.76 million for day support, vocational program services, and transportation services. If Medicaid funding were used to replace the \$2.76 million in local funding, it would cost the State only \$1.38 million, because the State funds would be matched by an additional \$1.38 of Federal funds. Not only would this be cost effective; it would free up local funds to serve some of the additional people on the waiting list.

The problem of need outstripping available funds is not unique to the Fairfax County mental retardation program; but inequities in State funding formulas that do not adequately account for the disproportional needs of very large populations is very apparent in this area. If Fairfax County were allocated MR Waiver slots on the basis of population, the County would be able to access nearly 800 slots out of the current 5,536 MR Waiver slots in Virginia. However, our CSB currently has only 414 MR Waiver slots for 742 eligible individuals, resulting in 328 persons on the wait list. If slots were allocated by population, the existing MR Waiver wait list would be eliminated.

An additional complication – low MR Waiver reimbursement rates – further impedes family access to services. The majority of MR Waiver support services are provided by private agencies, which are experiencing difficulties in retaining a qualified work force due, at least in part, to low wage rates. These rates are largely based on Medicaid reimbursement rates, and need to be substantially increased to adequately reimburse providers for the cost of providing services. In addition, a rate differential is needed in Northern Virginia to account for Northern Virginia's higher cost of living. The reimbursement rates for the MR Waiver have not been substantially increased since the implementation of the program in 1991, despite the fact that the Consumer Price Index has risen by approximately 35 percent.

Healthy Families: This nationally recognized child abuse prevention program is currently funded by the County, State, TANF and the private sector. Although the program is remarkably successful in teaching at-risk families how to parent effectively, State General Funds were in danger of being eliminated during the 2002 General Assembly Session, and have recently been totally replaced by TANF funds. This will prohibit the County from leveraging these revenues for additional Federal funds. Future reductions in State support will require the County to re-examine its ability to sustain the program at the current level.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

2. FUNDING -- HUMAN SERVICES (Cont.)

Community Action Programs: Across-the-board cuts in the State Department of Social Services' budget in FY 2003 resulted in a reduction in the State allocation of Community Service Block Grant (CSBG) funds. In FY 2004 all CSBG State General Fund revenues will be replaced by TANF funds. Because Fairfax County awards State CSBG funds through the Consolidated Community Funding Pool, further cuts in this area might result in a reduction of funds to local nonprofit agencies that provide services to low-income families.

Programs for the Hard to Serve: Federal Temporary Assistance to Needy Families (TANF) funds are used by states to pay subsidies directly to low-income families, and to provide a wide variety of services to assist families to become self-sufficient. Two factors have recently affected the availability of future TANF funds for Virginia's low-income families. Federal legislation that created "Welfare Reform" and provided TANF funds to states expired in October 2002. The outgoing Congress passed a Continuing Resolution (due to expire in January 2003) to continue funding the program until a new Congress can reauthorize the statute. It is not known how the new Congress will allocate Federal funds to continue welfare reform services. In addition, as the State's fiscal problems have worsened, Virginia has used its unallocated, reserve TANF funds to replace the State's General Funds in programs such as Healthy Families when budget cuts have been made. This has tended to deplete Virginia's TANF reserves. For both of these reasons, Virginia's TANF reserves are vulnerable.

In the past, TANF funds have been earmarked for services to individuals and families who face special hardships on the road to self-sufficiency. Among these people are prisoners reentering society, homeless individuals and families, and those families who are totally dependent on monthly TANF subsidies as their only source of income. Many of these individuals and families benefited from services provided by nonprofit agencies whose programs were funded by TANF. Should Congress quickly reauthorize the welfare reform program and increase the TANF revenues available to Virginia, these "hard to serve" individuals and families should be prioritized as among the most in need of TANF supported programs.

Organ and Tissue Donor Registry: In 2000, the Virginia General Assembly passed legislation creating, but not funding, the Virginia Organ and Tissue Donor Registry to maintain and update information on Virginians who have volunteered to donate organs or tissues. In 2001, \$75,000 was appropriated to the Department of Motor Vehicles for the transfer of its data to the registry. Without additional funds the Health Department is not able to operate the registry or adequately publicize its existence.

(Continued on next page)

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

2. FUNDING -- HUMAN SERVICES (Cont.)

The human services highlighted above reflect the broad spectrum of programs that affect the lives of County residents every day. During the past ten years the General Assembly has inaugurated bold human services initiatives meant to promote and support the well being of families and individuals within the Commonwealth. The State endorsed the deinstitutionalization of mentally ill individuals, authorized a comprehensive system of services for at-risk children, and implemented the Federal effort to reform welfare.

The true costs of providing the necessary services to fully implement the programs as envisioned were woefully underestimated and underfunded. Further, the State has not adequately defined the service responsibilities between localities and the State, and has failed to maximize available revenues by not providing the baseline funding necessary to draw down additional Medicaid funds for children's health care, optional mental retardation services and child day care.

The consequences of underfunding human services are substantial. Eliminating or reducing services in these areas seriously impacts the lives of children, the elderly, the disabled and the poor. Without relief, these problems do not disappear, they merely transform their appearance and emerge as homelessness, more serious illnesses, school failures, unemployment, and incarceration. In the long term these issues are far more serious and far more costly to remedy.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

3. HUMAN RIGHTS -- GENETIC INFORMATION DISCRIMINATION

Support legislation that would allow the County and other localities to include provisions within local human rights ordinances prohibiting discrimination in employment on the basis of genetic testing or genetic characteristics, provided such provisions are not inconsistent with the current provisions of Va. Code § 40.1-28.7:1(A).

As enacted, Senate Bill No. 102 and House Bill No. 1307 (Howell and Watts, 2002 GA) in Va. Code § 40.1-28.7:1(A), prohibit employers from (i) requiring a genetic test as a condition of employment and (ii) refusing to hire, failing to promote, discharging (or otherwise adversely affecting any term or condition of employment other than a long-term care, life or disability insurance policy), an employee or prospective employee solely on the basis of the results of a genetic characteristic or genetic test. Violators are subject to actual or punitive damages, including back pay with interest, or injunctive relief.

The public perception is that access to and the use of genetic information by employers is detrimental to employment opportunities; in 1995 a Harris Poll confirmed that 85 percent of the public is concerned or somewhat concerned about access to genetic information by employers. In 1997, 63 percent of the respondents to a National Center for Genome Resources survey indicated that they would not take a genetic test if employers could get access to the results. According to the Human Genome Project, genetics often play a role in cancer, heart disease, diabetes, as well as somewhere between 3,000 and 4,000 diseases. Public concern about employment discrimination may cause individuals to refuse to seek potentially life-saving testing or treatment, or to participate in genetic research or clinical trials.

The current laws do not seem to allow for an administrative complaint to be filed with a local government agency such as the Human Rights Commission. The Fairfax County Human Rights Commission believes that allowing such an amendment to the local human rights ordinance is a natural extension of the protections already allowed under State law.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

4. LAND USE -- TRANSFERABLE DEVELOPMENT RIGHTS

Endorse legislation that would authorize local governments, by ordinance, to establish a Transferable Development Rights (TDR) program with the caveat that disincentives for localities to enact TDR ordinances are not part of such legislation, such as a prohibition on the rezoning of property in the sending and receiving zones after the adoption of a transferable development rights program. (Reaffirms previous position.)

Under a traditional TDR program, specific sending and receiving zones would be identified within a given locality. A developer would purchase some or all of the permitted development rights from parcels located within a sending zone and would then build the attributable density/intensity on land located within a receiving zone. The development of such transferred density would be in addition to the development potential otherwise permitted on the receiving parcels. The Board of Supervisors has historically endorsed the concept of legislation that would grant additional flexibility to local governments to establish TDR programs.

Since at least the 1990 Session of the General Assembly, there have been several unsuccessful bills introduced that, if passed, would have authorized local governments to adopt TDR ordinances. During the 1985 Session, the General Assembly enacted Senate Bill No. 249 that authorized Loudoun County and towns within that County to adopt by ordinance voluntary TDR programs. That legislation contained a July 1, 1986, sunset that was never extended and further provided that any such ordinance would have to be approved by the General Assembly before it could take effect.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

5. PARKING -- COMMERCIAL VEHICLES ON RESIDENTIAL STREETS

Endorse legislation that would expand the Board's authority to further prohibit parking of trailers, semitrailers, and commercial vehicles having a registered gross weight of 6,000 pounds or more. (Reaffirms previous position.)

The 2002 General Assembly considered House Bill No. 1329 which would have allowed the governing bodies of Fairfax County and towns within it and Prince William County by ordinance to regulate or prohibit parking of trailers or semitrailers (regardless of whether they are attached to another vehicle) and vehicles primarily used for commercial purposes if they have a registered gross weight of 6,000 pounds or more. The bill would have also established a rebuttable presumption that a vehicle is used for commercial purposes if the vehicle displays any written or printed advertisement for a business. The bill was tabled in the House Transportation Committee by a vote of 9-6; it is anticipated that legislation will be introduced during the 2003 General Assembly.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

6. TAXATION -- EQUAL TAXING AUTHORITY

Support legislation to grant counties equal taxing authority with cities and towns. This would enable counties to broaden and diversify their revenue base, and reduce dependency on the real estate tax. This would allow, for example, counties to levy additional cigarette taxes. (Reaffirms previous position.)

This has been a long-standing position of Fairfax County, as well as the Virginia Association of Counties (VACo), the Virginia Municipal League (VML) and other local governments. A 1993 report by the Joint Legislative Audit and Review Commission (JLARC) on State and local service responsibilities noted that the distinction between cities and counties appropriate during the early 1900's to identify urban and rural localities in Virginia was blurred by the 1971 changes to the *Virginia Constitution*; those changes no longer maintained separate constitutional sections for cities and counties.

The elimination of different treatment of cities and counties, specifically for taxing authority, has since been recommended in 2001 by both the Commission on Virginia's State and Local Tax Structure for the 21st Century (the "Morris" Commission) and the Governor's Commission on Government Finance Reform for the 21st Century (the "Gilmore" Commission). The proposal is now under consideration by the Joint Subcommittee to Study and Revise Virginia's State Tax Code (the "McDonnell/Hanger" subcommittee). As noted by the Morris Commission, the distinction in taxing authority is ". . . based solely on an historical legalism and [which] has no relevancy to modern service responsibilities. . . ."

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

7. TELECOMMUNICATIONS

The telecommunications industry continues to change rapidly as a result of the Telecommunications Act of 1996. Federal and state governments continue to be pressured to eliminate or restrict local governments' existing authority over the telecommunications industry. Additionally, telecommunications advocates nationally have promoted tax reform in the form of simplification and rate reduction. To promote the health, safety, general welfare and quality of life of our residents, Fairfax County supports the following principles and positions:

A) Oppose any reduction or diminution of local telecommunications taxing authority, i.e., the telephone consumer utility tax, E 911 tax, and local license tax. Any changes contemplated as part of any "reform" package should be revenue neutral to individual localities (i.e., should result in maintaining the current telecommunications tax revenue to individual localities), should maintain the tax as a local tax, and should provide for growth of such revenues. Any rate reduction of such taxes would have to be balanced by a broadened base and include the anticipated "future growth" of telecommunications services; this might include services not presently taxed.

The cable franchise fee should be recognized as the fee paid to a locality for the cable operator's use of public land and rights-of-way and should not be classified as a special telecommunications tax.

As a result of lobbying by the telecommunications industry at the State level, a legislative study has been created to reform State and local telecommunications taxes. As conceptualized, reforms could include:

- a uniform tax rate;
- a centralized State administration and collection program for both State and local telecommunications taxes that would disburse revenue collected to local governments; and
- an expanded tax base that would apply the proposed new rate to specific services that currently are not taxed (including paging services, direct broadcast satellite television services, long distance services billed to an address in Virginia, and phone "calling" cards).

A number of changes have occurred in the telecommunications industry since the current tax structure was first established. Once highly regulated with a very narrow focus, the industry has evolved into a deregulated industry with significant overlap between different technologies. As a result, some segments now avoid taxation altogether; therefore, some industry representatives are calling for a "level playing field" for all providers.

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

7. TELECOMMUNICATIONS (Cont.)

- B) Oppose any preemption or circumvention of local governments' historical control over land use decisions and oppose any attempt to eliminate local governments' rights to charge, on a non-discriminatory basis, fair and reasonable compensation for use of public property** *(Reaffirms previous position.)*
- C) Specifically support restricting the Virginia Department of Transportation's (VDOT's) ability to allow the construction of commercial mobile and land-based telecommunications facilities (e.g., monopoles, towers, and related structures) without prior approval of the affected locality's land-use and/or zoning authority.** *(Reaffirms previous position.)*
- D) Oppose any reduction, preemption, or circumvention of VDOT or the County's authority to manage and oversee the rights-of-way and the property located thereunder.** *(Reaffirms previous position.)*

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

8. TRANSPORTATION -- HIGHWAY ALLOCATION FORMULA

Support legislation increasing Fairfax County's share of the Secondary Road allocation by using factors such as population and Vehicle Miles Traveled (VMT). Support legislation that increases Northern Virginia's share of the Primary Road allocation by also using population and VMT per lane mile.

The Systems allocation formula is used to distribute the highway construction portion of the Transportation Trust Fund (TTF) to the Primary, Urban and Secondary Highway Systems in Virginia. The Primary System allocation formula is based 70 percent on Vehicle Miles Traveled (VMT), 25 percent on lane miles of primary roads in the district, and 5 percent on a needs factor. The Primary Road fund is distributed by the VDOT construction district; the Urban allocation formula is based 100 percent on population; and the Secondary Road allocation formula is 80 percent population and 20 percent land area.

Fairfax County is eligible for Primary Road (as part of VDOT's Northern Virginia District) and Secondary Road allocations. Since the Primary Road fund is allocated to the construction district, the County's share varies from year to year. However, Secondary Road allocation is made directly to the County.

Two bills that would change the allocation formula were continued by the 2002 Session. HB 772 (Watts) would change the Primary Road allocation from 70% VMT, 25% lane miles, and 5% needs factor to 25% of primary fund distributed by VMT per lane mile, and 75% by the current formula. HB 1276 (Rust) would change the Urban and Secondary Road formula to 15% area, 25% VMT per lane mile, and 60% population. Currently, Urban allocation is by 100% population and the Secondary Road allocation is by 80% population and 20% area.

The following tables show the potential increases to Secondary and Primary Road Funds if changes to the VDOT allocation formula are made.

(Continued on next page)

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

Potential Changes to the VDOT Highway System Allocation Formula
 (Based on FY2003 VDOT Allocation)

Secondary Road Allocation

FY 2003 \$87.7 million available Statewide
\$14.8 million to Fairfax County

Formula	Fairfax Share	Increase for Fairfax County (in Million)
<u>Current Formula</u> Population (80%) and Land Area (20%)	16.9%	-
Population Only	21.0%	+\$3.6m
Vehicle Miles Traveled (VMT)	24.0%	+\$6.3m

Primary Road Allocation (Allocation by Construction District)

FY 2003 \$121.2m available Statewide
\$17.9m to the Northern Virginia District

Formula	Northern Virginia Share	Increase for Northern Virginia
<u>Current Formula</u> Vehicle Miles Traveled (VMT) (70%), Lane Miles (25%) and Needs Factor (5%)	14.7%	-
Population	25.6%	+\$13.2m
VMT	18.3%	+\$4.3m
Congestion (VMT per lane mile)	27.5%	+\$15.5m

Fairfax County LEGISLATIVE POSITIONS
2003 Virginia General Assembly

9. YOUTH -- FAIRFAX PARTNERSHIP FOR YOUTH

- A) Endorse legislation that would permit localities to prohibit persons under eighteen years of age from selling alcoholic beverages for off-premises consumption.** *(Reaffirms previous position)*

House Bill No. 2130 (1997 GA), House Bill No. 1358 (1998 GA) and House Bill No. 2504 (1999 GA) sought local option ability to prohibit the sale, by persons under 18, of alcoholic beverages for off-premises consumption. House Bill No. 2130 was passed by the 1997 General Assembly but contained a reenactment clause; however, reenactment attempts were not approved by the 1998 and 1999 General Assemblies. Despite a number of changes by the patron, House Bill No. 1358 and House Bill No. 2504 continued to be strongly opposed by alcohol distributors and others, which helped to defeat the bills. Legislation was not pursued during the 2001 or 2002 General Assembly Sessions.

- B) Endorse legislation to require regular statewide application of a comprehensive youth risk behavior survey in sufficient numbers for sub-unit analysis.** *(Reaffirms previous position)*

In order to effectively respond to the needs and problems of their youth, communities need timely and accurate information on the types and prevalence of a variety of behaviors that place youth at risk. Confidential surveys have proven to be a valid and reliable method for acquiring and tracking such information, including both positive and negative trends. The information from youth risk behavior surveys is essential in targeting the problems most in need of intervention, and in measuring the impact of programs and other factors on those problems over time.

- C) Endorse continuation of State funding for the Fairfax Partnership for Youth Mentoring Program (Partnership).** *(Updates and reaffirms previous position.)*

There is a general consensus that among youth aged 10 to 18 in Fairfax County (over 100,000) there is a large, unmet need for positive mentor relationships matching youth with caring adults who can serve as positive role models. Currently, the Partnership recruits, trains and supports adult mentors. Over 30 organizations that use mentors are involved in the Partnership project. The Partnership received \$50,000 from the General Assembly during each of the 2000 and 2002 sessions. Continued State funding is necessary to support the Partnership initiative through its implementation phase.